

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 526

Introduced by Friend, 10.

Read first time January 21, 2009

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities and villages; to amend sections
2 13-1111, 13-1115, 13-1116, 13-1117, 13-1118, 13-1120,
3 16-117, and 17-405.01, Reissue Revised Statutes of
4 Nebraska; to provide requirements for land annexation
5 by cities of the first and second class and villages;
6 to harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-1111, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-1111 As used in sections 13-1111 to 13-1120 and
4 section 2 of this act, unless the context otherwise requires: (1)
5 Industrial area ~~shall mean~~ means a tract of land used or reserved
6 for the location of industry, except that such land may be used for
7 agricultural purposes until the use is converted for the location
8 of industry as set forth in sections 13-1111 to 13-1120 and section
9 2 of this act; and (2) industry ~~shall mean~~ means (a) any enterprise
10 whose primary function is to manufacture, process, assemble,
11 or blend any agricultural, manufactured, mineral, or chemical
12 products; (b) any enterprise that has as its primary function
13 that of storing, warehousing, or distributing, and specifically
14 excluding those operations whose primary function is to directly
15 sell to the general public; or (c) any enterprise whose primary
16 function is research in connection with any of the foregoing, or
17 primarily exists for the purpose of developing new products or new
18 processes, or improving existing products or known processes. The
19 owner or owners of any contiguous tract of real estate containing
20 twenty acres or more, no part of which is within the boundaries of
21 any incorporated city or village, except cities of the metropolitan
22 or primary class, may file or cause to be filed with the county
23 clerk of the county in which the greater portion of such real
24 estate is situated if situated in more than one county, an
25 application requesting the county board of such county to designate

1 such contiguous tract as an industrial area.

2 Sec. 2. (1) Any city of the first or second class or
3 village located wholly within the boundaries of a county located
4 immediately adjacent to a county within which is located a city of
5 the metropolitan class may by ordinance at any time include within
6 the corporate limits of such city or village any lands, lots,
7 tracts, streets, or highways as are urban or suburban in character
8 and in such direction as may be deemed proper, notwithstanding that
9 such lands, lots, tracts, streets, or highways are not contiguous
10 or adjacent to the corporate boundaries of the city or village, if
11 such properties are (a) located wholly within the area in which
12 such city or village exercises extraterritorial zoning jurisdiction
13 as such city or village existed on January 1, 2009, and (b) would
14 not add more than twenty-five new residents to the city or village
15 by reason of such annexation. Such annexation may be accomplished
16 by means of an attachment to the existing city or village boundary
17 along an existing street or right-of-way.

18 (2) Any city of the first or second class or village
19 located wholly within the boundaries of a county located
20 immediately adjacent to a county within which is located a city of
21 the metropolitan class may by ordinance at any time include within
22 the corporate limits of such city or village any lands, lots,
23 tracts, streets, or highways as are urban or suburban in character
24 and in such direction as may be deemed proper, notwithstanding that
25 such lands, lots, tracts, streets, or highways are not contiguous

1 or adjacent to the corporate boundaries of the city or village,
2 if such properties are located wholly within the area in which
3 such city or village exercises extraterritorial zoning jurisdiction
4 as such city or village existed on January 1, 2009. If by reason
5 of such annexation the population of such city or village would
6 increase by more than twenty-five persons, such annexation shall
7 proceed only upon the approval of a majority of the property
8 owners located in the area proposed for annexation. Such approval
9 shall be obtained in an election conducted in the same manner as
10 provided for the election of trustees to the board of a sanitary
11 and improvement district as setout in section 31-735, except that
12 such election may be conducted at any time during the year unless
13 otherwise prohibited by law. If approved by a majority of the
14 property owners within the area proposed for annexation, such
15 annexation can be accomplished by means of an attachment to the
16 existing city or village boundary along an existing street or
17 right-of-way.

18 (3) An annexation may be conducted pursuant to this
19 section into areas within which the city or village is exercising
20 extraterritorial zoning jurisdiction into areas where such
21 jurisdiction was extended by ordinance after January 1, 2009,
22 except that no annexation authorized by this section shall be
23 extended into such new area within one calendar year after the
24 effective date of the ordinance extending such zoning jurisdiction.

25 (4) Nothing in this section shall be construed as

1 otherwise limiting or prohibiting the conduct of any annexation
2 by a city of the first class in conformity with section 16-117 or
3 by a city of the second class or village in conformity with section
4 17-405.01.

5 Sec. 3. Section 13-1115, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 13-1115 Upon designation of ~~such~~ a tract as an industrial
8 area by the county board of the county in which the petition
9 is filed pursuant to section 13-1111, such designated area shall
10 thereupon be used or reserved for the location of industry. Such
11 land may be used for agricultural purposes until the use is
12 converted for the location of industry as set forth in sections
13 13-1111 to 13-1120 and section 2 of this act. If such tract has
14 a taxable valuation of more than two hundred eighty-six thousand
15 dollars, it shall not be subject to inclusion within the boundaries
16 of any incorporated city of the first or second class or village,
17 except that such tract regardless of taxable valuation may be
18 annexed if (1) it is located in a county with a population in
19 excess of one hundred thousand persons and the city or village did
20 not approve the original designation of such tract as an industrial
21 area pursuant to section 13-1112, (2) the annexation is stipulated
22 in the terms and conditions agreed upon between the county and the
23 city or village in any agreement entered into pursuant to section
24 13-1112, or (3) the owners of a majority in value of the property
25 in such tract as shown upon the last preceding county assessment

1 roll consent to such inclusion in writing or petition the city
2 council or village board to annex such area.

3 Sec. 4. Section 13-1116, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 13-1116 During the period any area is designated as an
6 industrial area as provided by sections 13-1111 to 13-1120 and
7 section 2 of this act, the county board in which the greater area
8 of real estate is located shall have exclusive jurisdiction for
9 zoning and otherwise regulating the use of the industrial area
10 in such a way as to confer upon the owners and users thereof
11 the benefits of a designated tract to be held and reserved for
12 industrial purposes only. Such ~~PROVIDED, such~~ authority shall not
13 be granted to the county board if the zoning of such designated
14 area is within the jurisdiction of any city or village.

15 Sec. 5. Section 13-1117, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 13-1117 During the time any tract is designated as an
18 industrial area, as provided by sections 13-1111 to 13-1120 and
19 section 2 of this act, the owners of such designated area shall
20 provide at their expense for water, electricity, sewer, and fire
21 and police protection.

22 Sec. 6. Section 13-1118, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 13-1118 The boundaries of the designated industrial area
25 pursuant to sections 13-1111 to 13-1120 and section 2 of this act

1 may be changed to include other tracts of real estate containing
2 not less than ten acres when contiguous to the area designated
3 as an industrial area by filing a petition, publishing a notice
4 ~~thereof, of the petition,~~ and having a hearing on the petition
5 in the same manner as when an original petition to designate a
6 contiguous tract as an industrial area is filed. The county board
7 of the county in which the petition was filed shall designate
8 such additional tract in the industrial area to which the tract
9 is to be attached if the board shall find that the conditions of
10 the provisions of section 13-1114 are complied with. After such
11 designation by such county board, such tract that is designated as
12 part of the industrial area shall be governed by the provisions of
13 sections 13-1111 to 13-1120 and section 2 of this act as though it
14 was part of the original designated tract as an industrial area.

15 Sec. 7. Section 13-1120, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 13-1120 When the owner or owners of all of the contiguous
18 tracts of real estate designated as an industrial area as provided
19 by sections 13-1111 to ~~13-1118,~~ 13-1120 and section 2 of this act
20 shall file with the county board of the county in which such real
21 estate is located, or the greater portion of such real estate, a
22 petition requesting that the designation of the whole of the real
23 estate as an industrial area be terminated, the county board shall
24 enter an order determining that such real estate shall no longer be
25 an industrial area. When a certified copy of such order is filed

1 with the register of deeds and county assessor of the county or
2 counties in which the real estate is located, such real estate
3 shall no longer be an industrial area.

4 Sec. 8. Section 16-117, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 16-117 (1) Except as provided in sections 13-1111 to
7 13-1120 and section 2 of this act and subject to this section,
8 the mayor and city council of a city of the first class may
9 by ordinance at any time include within the corporate limits of
10 such city any contiguous or adjacent lands, lots, tracts, streets,
11 or highways as are urban or suburban in character and in such
12 direction as may be deemed proper. Such grant of power shall not
13 be construed as conferring power upon the mayor and city council
14 to extend the limits of a city of the first class over any
15 agricultural lands which are rural in character.

16 (2) The invalidity of the annexation of any tract of land
17 in one ordinance shall not affect the validity of the remaining
18 tracts of land which are annexed by the ordinance and which
19 otherwise conform to state law.

20 (3) The city council proposing to annex land under the
21 authority of this section shall first adopt both a resolution
22 stating that the city is proposing the annexation of the land and a
23 plan for extending city services to the land. The resolution shall
24 state:

25 (a) The time, date, and location of the public hearing

1 required by subsection (5) of this section;

2 (b) A description of the boundaries of the land proposed
3 for annexation; and

4 (c) That the plan of the city for the extension of city
5 services to the land proposed for annexation is available for
6 inspection during regular business hours in the office of the city
7 clerk.

8 (4) The plan adopted by the city council shall contain
9 sufficient detail to provide a reasonable person with a full and
10 complete understanding of the proposal for extending city services
11 to the land proposed for annexation. The plan shall (a) state
12 the estimated cost impact of providing the services to such land,
13 (b) state the method by which the city plans to finance the
14 extension of services to the land and how any services already
15 provided to the land will be maintained, (c) include a timetable
16 for extending services to the land proposed for annexation, and
17 (d) include a map drawn to scale clearly delineating the land
18 proposed for annexation, the current boundaries of the city, the
19 proposed boundaries of the city after the annexation, and the
20 general land-use pattern in the land proposed for annexation.

21 (5) A public hearing on the proposed annexation shall be
22 held within sixty days following the adoption of the resolution
23 proposing to annex land to allow the city council to receive
24 testimony from interested persons. The city council may recess
25 the hearing, for good cause, to a time and date specified at the

1 hearing.

2 (6) A copy of the resolution providing for the public
3 hearing shall be published in the official newspaper in the city
4 at least once not less than ten days preceding the date of the
5 public hearing. A map drawn to scale delineating the land proposed
6 for annexation shall be published with the resolution. A copy of
7 the resolution providing for the public hearing shall be sent by
8 first-class mail following its passage to the school board of any
9 school district in the land proposed for annexation.

10 (7) Any owner of property contiguous or adjacent to a
11 city of the first class may by petition request that such property
12 be included within the corporate limits of such city. The mayor and
13 city council may include such property within the corporate limits
14 of the city without complying with subsections (3) through (6) of
15 this section.

16 (8) Notwithstanding the requirements of this section, the
17 mayor and city council are not required to approve any petition
18 requesting annexation or any resolution or ordinance proposing to
19 annex land pursuant to this section.

20 Sec. 9. Section 17-405.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 17-405.01 (1) Except as provided in subsection (2) of
23 this section, the mayor and council of any city of the second
24 class or the chairperson and members of the board of trustees
25 of any village may by ordinance, except as provided in sections

1 13-1111 to ~~13-1118~~, 13-1120 and section 2 of this act, at any time,
2 include within the corporate limits of such city or village any
3 contiguous or adjacent lands, lots, tracts, streets, or highways as
4 are urban or suburban in character, and in such direction as may
5 be deemed proper. Such grant of power shall not be construed as
6 conferring power to extend the limits of any municipality over any
7 agricultural lands which are rural in character.

8 (2) The mayor and city council of any city of the
9 second class or the chairperson and members of the board of
10 trustees of any village may, by ordinance, annex any lands, lots,
11 tracts, streets, or highways which constitute a redevelopment
12 project area so designated by the city or village or its community
13 redevelopment authority in accordance with the provisions of the
14 Community Development Law and sections 18-2145 to 18-2154 when such
15 annexation is for the purpose of implementing a lawfully adopted
16 redevelopment plan containing a provision dividing ad valorem
17 taxes as provided in subsection (1) of section 18-2147 and which
18 will involve the construction or development of an agricultural
19 processing facility, notwithstanding that such lands, lots, tracts,
20 streets, or highways are not contiguous or adjacent or are not
21 urban or suburban in character. Such annexation shall comply with
22 all other provisions of law relating to annexation generally for
23 cities of the second class and villages. The city or village shall
24 not, in consequence of the annexation under this subsection of any
25 noncontiguous land, exercise the authority granted to it by statute

1 to extend its jurisdiction beyond its corporate boundaries for
2 purposes of planning, zoning, or subdivision development without
3 the agreement of any other city, village, or county currently
4 exercising such jurisdiction over the area surrounding the annexed
5 redevelopment project area. The annexation of any noncontiguous
6 land undertaken pursuant to this subsection shall not result in
7 any change in the service area of any electric utility without
8 the express agreement of the electric utility serving the annexed
9 noncontiguous area at the time of annexation, except that at such
10 time following the annexation of the noncontiguous area as the city
11 or village lawfully annexes sufficient intervening territory so as
12 to directly connect the noncontiguous area to the main body of
13 the city or village, such noncontiguous area shall, solely for the
14 purposes of section 70-1008, be treated as if it had been annexed
15 by the city or village on the date upon which the connecting
16 intervening territory had been formally annexed.

17 (3) For the purposes of subsection (2) of this section,
18 agricultural processing facility means a plant or establishment
19 where value is added to agricultural commodities through
20 processing, fabrication, or other means and where eighty percent
21 or more of the direct sales from the facility are to other than
22 the ultimate consumer of the processed commodities. A facility
23 shall not qualify as an agricultural processing facility unless its
24 construction or development involves the investment of more than
25 one million dollars derived from nongovernmental sources.

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1 Sec. 10. Original sections 13-1111, 13-1115, 13-1116,
2 13-1117, 13-1118, 13-1120, 16-117, and 17-405.01, Reissue Revised
3 Statutes of Nebraska, are repealed.